

GREENBERG TRAURIG, LLP
SCOTT D. BERTZYK (SBN 116449)
DENISE M. MAYO (SBN 275561)
1840 Century Park East, Suite 1900
Los Angeles, California 90067
Telephone: (310) 586-7700
Facsimile: (310) 586-7800
Email: *BertzykS@gtlaw.com*

GREENBERG TRAURIG, LLP
GERARDO RODRIGUEZ-ALBIZU (Admitted *Pro Hac Vice*)
777 South Flagler Drive, Suite 300 East
West Palm Beach, Florida 33401
Telephone: (561) 650-7900
Facsimile: (561) 655-6222

Attorneys for Plaintiff
AREAS USA SJC, LLC

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

AREAS USA SJC, LLC, a California limited liability company,

Plaintiff,

vs.

MISSION SAN JOSE AIRPORT, LLC, a Colorado limited liability corporation; and MISSION YOGURT, INC., a Colorado corporation,

Defendants.

CASE NO. C11-04487 HRL

**PLAINTIFF AREAS USA SJC, LLC'S
PROPOSED FORM OF VERDICT FOR
TRIAL**

Complaint filed: September 9, 2011
Trial date: January 7, 2013

1 In accordance with the Court's Standing Order re: Pretrial Preparation, plaintiff Areas USA SJC,
2 LLC ("Areas") submits this proposed form of verdict for the Court's use at trial. Attached hereto as
3 Exhibit A is Areas' proposed special verdict form.
4
5
6

7 Dated: December 4, 2012

GREENBERG TRAURIG, LLP

8 By: /s/ Denise M. Mayo

9 Denise M. Mayo
10 Attorneys for Plaintiff,
11 AREAS USA SJC, LLC

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**PLAINTIFF AREAS USA SJC,
LLC'S PROPOSED FORM OF
VERDICT FOR TRIAL**

EXHIBIT A

PROPOSED SPECIAL VERDICT

It has been stipulated that: (1) Mission San Jose Airport, LLC entered into the Concession Subcontract with plaintiff Areas, and Mission Yogurt, Inc. provided a written guaranty as security for Mission San Jose's performance; (2) Mission has not built out the leased premises; (3) Mission San Jose Airport has not made any of the payments, or posted a letter of credit, as specified in the Subcontract; and (4) Mission Yogurt has not made any payments under its Guaranty. Thus, you need not resolve such issues. Instead, please simply answer the first question below and then proceed to answer such remaining questions as are necessary to comply with the instructions set forth below.

1. Please state the amount of damages to which plaintiff has proven, by a preponderance of the evidence, to which would be entitled if Mission does not prove a defense to performance.

12. \$ _____

13. (When you have filled in the blank provided for in Question 1, please proceed to question 2.)

14. 2. Has Mission proven by a preponderance of the evidence that Areas has misrepresented and/or concealed a material fact it had a duty to disclose with respect to the leased premises?

17. _____

18. No

Yes

19. (If you have answered "no" to Question No. 2, then please have the foreperson sign and date this form
20 and notify the bailiff. If you have answered "yes" to Question No. 2, then please proceed to Question
21 No. 3.)

22. 3. Has Mission proven by a preponderance of the evidence that Areas knew of the falsity of its
23 statement and/or knew it was concealing material information it had a duty to disclose?

25. _____

26. No

Yes

1 (If you have answered “no” to Question No. 3, then please have the foreperson sign and date this form
2 and notify the bailiff. If you have answered “yes” to Question No. 3, then please proceed to Question
3 No. 4.)

4 4. Has Mission proven by a preponderance of the evidence that Areas committed the acts described
5 in Question Nos. 2 and 3 with an intent to induce Mission to enter into the Concession
6 Subcontract and Guaranty?

7 _____ _____
8 No Yes

9 (If you have answered “no” to Question No. 4, then please have the foreperson sign and date this form
10 and notify the bailiff. If you have answered “yes” to Question No. 4, then please proceed to Question
11 No. 5.)

12 5. Did Mission justifiably rely upon Areas in entering into the Concession Subcontract and
13 Guaranty?
14 _____ _____
15 No Yes

16 (If you have answered “no” to Question No. 5, then please have the foreperson sign and date this form
17 and notify the bailiff. If you have answered “yes” to Question No. 5, then please proceed to Question
18 No. 6.)

19 6. Has Mission proven by a preponderance of the evidence that it has suffered resulting damage?
20 _____ _____
21 No Yes

22 (If you have answered “no” to Question No. 6, then please have the foreperson sign and date this form
23 and notify the bailiff. If you have answered “yes” to Question No. 6, then please proceed to Question
24 No. 7.)

1 7. If, but only if, you have answered "yes" to each of Question Nos. 2-6, then please state the
2 amount of damages Mission has proven, by a preponderance of the evidence.

3 \$ _____

4 (If your answer is zero, then please have the foreperson sign and date this form and notify the bailiff.
5 Otherwise, after you have filled in the blank provided for in Question 7, please proceed to answer
6 Question Nos. 8 and 9, and then have the foreperson sign and date this form and notify the bailiff.)

7 8. Has Areas acted with oppression, fraud or malice towards Mission San Jose Airport, LLC?

9 _____ _____

10 No Yes

11 9. Has Areas acted with oppression, fraud or malice towards Mission Yogurt, Inc.?

12 _____ _____

13 No Yes

14 18 DATED: _____

19 FOREPERSON

1
PROOF OF SERVICE
2 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES
3

4 I am employed in the aforesaid county, State of California; I am over the age of 18 years and not
5 a party to the within action; my business address is **1840 Century Park East, Suite 1900, Los Angeles**
6 **CA 90067.**

7 On December 4, 2012, I served **PLAINTIFF AREAS USA SJC, LLC'S PROPOSED FORM OF**
8 **VERDICT FOR TRIAL** on the interested parties in this action by placing the true copy thereof,
9 enclosed in a sealed envelope, postage prepaid, addressed as follows:

10 Daniel Rockey
11 Meryl Macklin
12 BRYAN CAVE LLP
13 560 Mission Street, 25th Floor
14 San Francisco, CA 94105

15 Attorney for Defendant

16 Tel: (415) 286-1986
17 Fax: (415) 268-1999

18 (BY FEDERAL EXPRESS)

19 I am readily familiar with the business practice of my place of employment in respect to the
20 collection and processing of correspondence, pleadings and notices for delivery by Federal
21 Express. Under the practice it would be deposited with Federal Express on that same day with
22 postage thereon fully prepared at Santa Monica, California in the ordinary course of business. I
23 am aware that on motion of the party served, service is presumed invalid if delivery by Federal
24 Express is more than one day after date of deposit with Federal Express.

25 (BY U.S. MAIL)

26 I served the above-mentioned document by enclosing it in an envelope and placing the envelope
27 for collection and mailing following our ordinary business practices. I am readily familiar with
28 this business's practice for collecting and processing correspondence for mailing.

29 (BY CM/ECF)

30 Pursuant to CM/ECF System, registration as a CM/ECF user constitutes service through the
31 Court's transmission facilities. The Court's CM/ECF system sends an e-mail notification of the
32 filing to the parties and counsel of record listed above who are registered with the Court's
33 EC/CMF system.

34 (FEDERAL) I declare under penalty of perjury that the foregoing is true and correct,
35 and that I am Employed at the office of a member of the bar of this Court
36 at whose direction the service was made.

37 Executed on December 4, 2012 at Los Angeles, California.

38 
39 Harpo Sidhu